

ASSEMBLY BILL

No. 179

Introduced by Assembly Members Gorell and Williams

January 24, 2011

An act to add Chapter 5 (commencing with Section 653.77) to Title 15 of Part 1 of the Penal Code, relating to electronic monitoring.

LEGISLATIVE COUNSEL'S DIGEST

AB 179, as introduced, Gorell. Electronic monitoring: removing or disabling: offense.

Existing law provides various programs of in-home detention and monitoring that include wearing global positioning system (GPS) devices, as specified. Existing law permits, and with respect to certain sex offenders requires, the use of electronic monitoring by county probation departments and the Department of Corrections and Rehabilitation to electronically monitor the whereabouts of persons on probation and parole respectively.

This bill would provide that unauthorized removal, as specified, of an electronic, GPS, or other monitoring device affixed for purposes of a criminal sentence, juvenile court disposition, parole, or probation is an offense punishable by imprisonment in a county jail for one year, or a \$1,000 fine, or both, if the underlying offense was a misdemeanor, or by imprisonment in the state prison for 16 months, 2 year, or 3 years if the underlying offense is a felony.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5 (commencing with Section 653.77) is
2 added to Title 15 of Part 1 of the Penal Code, to read:

3
4 CHAPTER 5. DISABLING ELECTRONIC MONITORING DEVICES
5

6 653.77. (a) Any person who willfully removes or disables an
7 electronic, global positioning system (GPS), or other monitoring
8 device affixed to his or her person, or the person of another,
9 knowing that the device was affixed as a condition of a criminal
10 sentence, juvenile court disposition, parole, or probation, is guilty
11 of a public offense.

12 (b) (1) Any person subject to an electronic, GPS, or other
13 monitoring device based on a misdemeanor conviction or a juvenile
14 adjudication for a misdemeanor offense, who willfully violates
15 subdivision (a) is guilty of a misdemeanor, punishable by
16 imprisonment in a county jail for up to one year, by a fine of up
17 to one thousand dollars (\$1,000), or both that fine and
18 imprisonment.

19 (2) Except as provided in subdivision (e), any person who
20 willfully removes or disables an electronic, GPS, or other
21 monitoring device affixed to another person where that device was
22 affixed to the other person based upon a misdemeanor conviction,
23 or based upon a juvenile adjudication for a misdemeanor offense,
24 is guilty of a misdemeanor, punishable by imprisonment in a county
25 jail for up to one year, by a fine of up to one thousand dollars
26 (\$1,000), or both that fine and imprisonment.

27 (c) (1) Any person subject to an electronic, GPS, or other
28 monitoring device based on a felony conviction, juvenile
29 adjudication for a felony offense, or terms of parole for a felony
30 offense, who willfully violates subdivision (a) is guilty of a felony,
31 punishable by imprisonment in the state prison for 16 months, two
32 year, or three years.

1 (2) Except as provided in subdivision (e), any person who
2 willfully removes or disables an electronic, GPS, or other
3 monitoring device affixed to another person where that device was
4 affixed to the other person based on a felony conviction or a
5 juvenile conviction for a felony offense is guilty of a felony,
6 punishable by imprisonment in the state prison for 16 months or
7 three years.

8 (d) Nothing in this section shall be construed to prevent
9 punishment pursuant to any other provision of law that imposes a
10 greater or more severe punishment, including, but not limited to,
11 Section 594.

12 (e) This section shall not apply to the removal or disabling of
13 an electronic, GPS, or other monitoring device by a physician,
14 emergency medical services technician, or by any other emergency
15 response or medical personnel when doing so is necessary during
16 the course of medical treatment of the person subject to the
17 electronic, GPS, or other monitoring device. This section shall
18 also not apply where the removal or disabling of the electronic,
19 GPS, or other monitoring device is authorized, or required, by a
20 court of law, or by the law enforcement, probation, parole authority,
21 or other entity responsible for placing the electronic, GPS, or other
22 monitoring device upon the person, or that has, at the time, the
23 authority and responsibility to monitor the electronic, GPS, or
24 other monitoring device.

25 SEC. 2. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.